

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2187 OF 2006

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
NOVEMBER 24, 2006.

Considering the nature of controversy, the matter is heard finally at the stage of admission itself with the consent of Shri Quazi, learned counsel for the petitioner and Shri Dhurvey, learned counsel for respondent No.1.

The petitioner has filed Special Civil Suit No. 1017 of 2005 for specific performance against Respondent No.2 – Gajanan. Present Respondent No.1 has also filed Special Civil Suit No.880 of 2004 for specific performance in relation to very same property against the same respondent. The petitioner, therefore, wanted to become party in Special Civil Suit No. 880 of 2004 and by the impugned order dated 5.9.2005 that application has been rejected by 4th Joint Civil Judge, Senior Division, Nagpur.

After hearing the parties, the following order is being passed by consent of the parties.

Both the parties state that Respondent

No.2 – Gajanan is missing and he is not participating in hearing in any of the Civil Suit. He has also not appeared before this Court though he is shown to have been served.

As both the suits are for specific performance, the application of present petitioner to join him as party defendant in Special Civil Suit No. 880 of 2004 is allowed. The petitioner be joined as defendant No.2 in Special Civil Suit in Special Civil Suit No. 880 of 2004.

Special Civil Suit No. 880 of 2004 and Special Civil Suit No. 1017 of 2005 are clubbed together and shall be decided by common evidence by the 4th Joint Civil Judge, Senior Division, Nagpur, before whom both suits are pending.

Considering the nature of controversy, proceedings in both the suits are expedited and the Court shall decide the suits as early as possible and in any case within a period of one year from the date of communication of this order to it.

Writ Petition is accordingly allowed. No order as to costs.

JUDGE